

## STEP I

### DOCUMENTS REQUIRED FOR LOAN PROCESSING APPLICATION, SITE APPROVAL AND DECLARATION OF INTENT

When a developer files a complete application, it must include a copy of the Certificate of Need or the application for it and the HMFA \$2,500 application fee. ***The developer must show evidence of having determined project feasibility prior to application submission. The HMFA will require that a preliminary market study be submitted with the application that shows the proposed project is feasible and needed planned. (See section III of this guide for further details, "Underwriting Guidelines and Financing Po*** The HMFA will assign a Loan Officer to monitor and assist the development effort. **A point of contact v established through whom all correspondence and requests will be made. This will ensure that the j will function smoothly.** At that point, HMFA professionals in such fields as Finance, Design, Constructi Development, Law, Housing Management, Assisted Living Administration and Federal Low Income Hou Tax Credits are available to help the developer expeditiously process the application. The Executive staff HMFA is available to provide guidance on policy issues.

While the HMFA team is invaluable in helping to navigate a project through the HMFA Statute and regu they cannot replace experts hired by the developer. This team should include at a minimum, an attorney, and contractor. If using federal low income housing tax credits, \* the team should include a tax attorney ( accountant familiar with the IRS Code requirements. The developer should put this team together with gr A weak link can be the difference between success and failure. It is also very important that the Departm Health and Senior Services (DOHSS) review and approve the project for Certificate of Need approval. **A Application will not be accepted for process without the Certificate of Need having been issued.** Th will stay in close contact with the DOHSS to be certain all parties are in agreement and the project fits wi both the HMFA and DOHSS guidelines and regulations.

#### HERE IS HOW THIS PROCESS WORKS:

- A. Generally, within ten business days of receipt of a complete application, the Loan Officer -- along with other HMFA staff will inspect the subject property and surrounding area and prepare a report based on those findings.
- B. If the site is found acceptable at this stage of processing, the Loan Officer will prepare a letter of conditional site approval advising the developer of the HMFA's findings.
- C. A meeting will then be scheduled with the developer to advise him/her of the processing guidelines and to establish a project schedule.
- D. The project will be presented to the HMFA Board for approval of a "Declaration of Intent". Prior to seeking any official action from the HMFA Board, the loan officer will seek the advice and guidance of the Executive Review Committees (ERC).

**NOTE:** It is important for all applicants to understand that in addition to meeting the conditions for site approval and the processing requirements enumerated in this manual, they must comply with any statutory requirements of the New Jersey Housing and Mortgage Finance Agency Act of 1983 and any other State or federal laws and regulations affecting the development of low to moderate-income housing. In addition, the use of any federal aid may involve the application of various federal environmental and/or historical considerations; it is the applicant's responsibility to obtain all necessary approvals or clearances for the project prior to completion of the loan processing.

- \* **At this time Low-income Housing Tax Credits can only be used if the IRS has issued PLR for the specific project being considered for funding.**

## **WHAT IS THE SIGNIFICANCE OF THE DECLARATION OF INTENT?**

**Approval of the Declaration of Intent establishes for tax purposes the eligibility of costs associated with pre-bond sale and development work. By this action, the Board expresses its present intent to issue bonds for the project.** The ability of the project to conform to the HMFA's Underwriting Guidelines and Financial Policy, as well as compliance with State regulations, federal tax and other laws, has not yet been determined. This action does not obligate the HMFA to take any further action in connection with this project, including action to issue bonds or to provide first mortgage financing, gap financing or a tax credit allocation, nor is the Declaration of Intent intended to give the project any preference over any other project financing.

Upon approval of the Declaration of Intent by the HMFA Board, the Loan Officer will schedule a meeting with the developer and the HMFA processing team. This team will consist of members of the Management, Regulatory Affairs, Finance and Technical Services divisions and when possible the Chief Underwriter. The developer and his/her development team should work in conjunction with HMFA staff to identify potential problems as well as develop a project schedule for submission of documents and requirements for mortgage closing. During this portion of the review process, it is important that the developer review the HMFA's Statute as well as all rules and regulations. Copies of the HMFA's Statute *are included in this guide*.

**ALL DOCUMENTS REQUIRED IN STEP I: APPLICATION SUBMISSION, SITE APPROVAL, CERTIFICATE OF NEED AND DECLARATION OF INTENT MUST BE SUBMITTED BEFORE THE HMFA BOARD OF DIRECTORS CAN TAKE ANY ACTION.**

### **Step I. Document Checklist**

<b>Number</b>	<b>Form Name</b>	<b>Prepared or Submitted By</b>
1.1	<b>Application</b>	Developer
1.2	Project Narrative ( <b>include any non-Agency financing</b> )	Developer
1.3	<b>Assisted Living Residence Pro forma - Form 10</b>	Developer
1.4	General Site Location Map (with directions to site)	Developer
1.5	Resumes for all Members of the Development Team	Developer
1.6	Formation Documents (Corporation or Partnership)	Developer
1.7	<b>Corporate Questionnaire</b>	Developer
1.8	Evidence of Site Control (deed, option agreement, contract of sale)	Developer
1.9	Preliminary <i><b>Design and Development</b></i> Drawings (w/specifications)	Developer
1.10	Site Inspection Report	HMFA
1.11	Letter of Conditional Site Approval	HMFA
1.12	Certificate of Need	Developer
1.13	<b>HMFA Operator Questionnaire</b> (must include the following)	Developer
	<ul style="list-style-type: none"> <li>Proposed Resident Agreement (final if approved by DHOSS)</li> <li>Contract between Sponsor &amp; Operator (if applicable)</li> </ul>	

1.14	<b>Preliminary Market Study</b>	Developer
1.15	HUD Application/Recipient Disclosure (Form 2880)	Developer
1.16	Previous Participation Certificate (for the development team)HUD form 2530	Developer
1.17	Request for Declaration of Intent	HMFA
1.18	<b>Board Approval of Declaration of Intent</b>	HMFA

**Items highlighted in bold means HMFA documents must be used.**

## **STEP II.**

### **REQUIREMENTS for MORTGAGE COMMITMENT INITIAL FINANCIAL FEASIBILITY, ENVIRONMENTAL & TECHNICAL REVIEW**

Step II is broken down into a series of phases. These phases are designed to determine the initial feasibility of a project prior to a developer incurring significant redevelopment expenses. These phases include:

- The determination of land value.
- The marketability of the project.
- An environmental assessment of the site.
- Meeting technical and design requirements
- Securing of project approvals by local and state government.

### **APPRAISAL AND MARKET STUDY**

HMFA requires that the appraisal and market study be done by an independent New Jersey licensed and certified appraiser. The appraiser is required to have successfully appraised properties of similar size and scope of the proposed assisted living project. The HMFA will select (on a rotating basis) from a list of pre-approved appraisers and market study professionals. The developer is then required to remit payment prior to commencement of the appraisal and market study.

Appraisers are required to take into consideration the three traditional approaches to valuation: the cost approach, the income capitalization approach, and the sales comparison approach. In addition to performing a land valuation analysis the appraiser is required to determine the amount of time needed in the market to reach sustaining occupancy (absorption rate).

The market study will define the market area, the projected demographic trends as well as the existing and planned competition. It will also provide a site analysis including accessibility to major highways and public transportation, health care services, shopping, cultural and recreational amenities.

Appraisals and Market Studies previously secured by the developer, may be acceptable to the HMFA under certain circumstances. However, it is solely at the discretion of the HMFA and in no way can it be considered given.

### **ENVIRONMENTAL CONCERNS**

The primary environmental concerns involved in planning an ALR is the identification of any potentially hazardous materials in and around the project as well as the effects on traffic, water supply, sewage disposal demands and the potential increased demands on other municipal services (schools, police, fire protection).

street maintenance). All projects are required to provide a ***preliminary assessment*** report using ASTM standards. Based upon the findings, the developer may be required to provide a ***Site Investigation*** report or an environmental remediation plan. Rehabilitation projects will be required to remove asbestos and test for lead-based paint. Projects using federal funding must also meet the federally established environmental guidelines.

## **FEDERAL LOW-INCOME HOUSING TAX CREDITS**

Developers anticipating competing for federal low income housing tax credits are encouraged to meet with the Tax Credit Unit staff to ensure compliance with that the allocation cycles and the Qualified Allocation requirements. Projects anticipating the use of the federal low income housing credit via volume cap will need to comply with the rules established in the Qualified Allocation Plan. Copies of the Qualified Allocation Plan are available upon request.

## **GOVERNMENTAL APPROVALS FOR LOAN COMMITMENT**

During this phase it becomes the developer's responsibility to seek and obtain final approvals from all necessary local or State government agencies. Examples of these approvals include:

- Zoning and Planning
- Tax Abatement Resolution
- Payment in lieu of taxes agreement
- DEP letter indicating no further action is necessary to remediate concerns

Many of the final clearances are conditioned on final drawings and specifications; therefore, it is important the drawings and specifications are available during the early stages of this step.

## **UPDATING THE PRO FORMA**

To facilitate a firm determination of project feasibility, the contractor's estimate of costs will be the basis for the revised FORM -10-feasibility analysis. The development team will meet with the HMFA's technical staff to resolve any changes to the technical drawings and cost estimate. A document review is required to ensure policy issues have been addressed and to avoid the need for future Board action, with regard to the loan commitment. Based upon a successful conclusion and submission of all documents in this step, staff will forward the project to executive staff for review before requesting a loan commitment.

## **MORTGAGE LOAN COMMITMENT**

The loan commitment will be conditioned upon a loan amount that the project can sustain. This amount is derived from a combination of the debt service ratio, term of mortgage, interest rate, income and expense projections and, the sources and uses of funds.

While the first two factors remain constant, the latter three are variable factors that can change between commitment and mortgage closing. As such changes impact the mortgage amount the project can sustain, the Executive Director is authorized to adjust the mortgage stated in the commitment to reflect variable factor changes. Developer's must advise their loan officer of their desire to receive a larger mortgage loan, reduce equity contribution or other source of funds or utilize the additional cash flow for project operations in the event the mortgage interest rate achieved is less than that anticipated. Conversely, if interest rates increase over anticipated and the mortgage is reduced, the developer must advise their loan officer of the availability of sources to meet the project-funding gap.

**Step II. Document Checklist**

<b>Number</b>	<b>Form Name</b>	<b>Prepared or Submitted By</b>
2.1	Preliminary Assessment Report (Certified to the HMFA)	Developer/HM
2.2	<b>Location of Hazardous Materials within a One Half-Mile Radius</b>	HMFA/DEP
2.2 a	HUD Environmental (HUD 4128, Fields Notes Checklist & HUD 7015.15)	Developer/HM
2.2 b	<b>Advertisement Request for Release of Funds</b>	HMFA
2.2 c	<b>HUD Firm Approval Letter Request</b>	HMFA
2.2 d	HUD Firm Approval Letter	Developer
2.3	<b>Appraisal/Market Study</b>	HMFA
2.4	<b>Architect's Contract</b>	HMFA
2.5	Design Development Drawings & Specifications	Developer
2.6	<b>Preliminary Trade Payment Breakdown</b> (signed by the General Contractor) and indicating that he/she will hold this price for at least six months	Developer
2.7	Evidence of G.C.'s ability to obtain 100% <b>Payment &amp; Performance Bond</b> or <b>Warranty/maintenance Bond</b> or 10% Letter of Credit* for permanent financing	Developer
2.8	Preliminary Site Plan Approval & Any Zoning Variances from Municipality & County (Resolution of proof of Publication)	Developer
2.9	Confirmation that Services (electric, gas, water, sewer, etc.) are available	Developer
2.10	Updated Form 10 Pro forma	Developer
2.11	15 Year Cash Flow Projections	Developer
2.12	Sources and Uses of Funds	Developer
2.13	Developer's Certification and the Breakdown of Costs (if tax credits are used)	Developer
2.14	<b>Tax Abatement including the Resolution of Need</b>	Developer
2.15	Credit Enhancement	HMFA or Developer
2.16	<b>Request for Loan Commitment</b>	HMFA
2.17	<b>Commitment</b> (includes payment)	Developer

**Items highlighted in bold means HMFA documents must be used.**

### STEP III

#### MORTGAGE CLOSING REQUIREMENTS

Once a project receives a loan commitment, the project is then transferred to the Regulatory Affairs Division for closing. The developer will be responsible for providing all documents listed in the Closing Punch List. The Regulatory Affairs Coordinator will then lead the team members through the loan closing. Issues regarding financial feasibility and provider changes and/or approvals, should continually be directed to the loan officer assigned to your project.

Developers will be expected to have his/her equity funding available at the time of closing. To meet the requirement for assisted living developments, a developer may pledge his/her development fee and other items such as the cost of the appraisal, market study and certain other professional fees. **The HMFA prohibits the pledging of the Contractor's fee.** It should be noted that developers are required to fund the debt service payment and servicing fee escrow equal to not less than one month's mortgage payment plus HMFA fees, insurance, tax escrows and charges upon loan closing. The HMFA's mortgage payments at any time during operations. If this manual has been adhered to, the closing should go smoothly. The developer should have all required revisions in accordance with the document review.

**A closing document checklist that is specific to your project will be developed by a Regulatory Affairs Coordinator.**

### STEP IV.

#### BOND FINANCING

The HMFA may elect to sell bonds prior to making the mortgage. The bond team generally begins working on the necessary bond documents upon submission of the indemnification deposit. This team includes the HMFA Chief Financial Officer as the team leader, the Directors of Finance, Regulatory Affairs, and Multifamily Programs, bond counsel, underwriters and a representative from the Attorney General's Office. This team will assemble and present the necessary documents to the Agency Board for approval. Moreover, the team will establish a schedule for document submission, which the developer will have to adhere to in order to ensure inclusion in the bond issue.

#### WHAT IS A TEFRA HEARING?

The Tax Equity and Fiscal Responsibility Act (TEFRA) imposed new requirements for tax-exempt bonds in 1982. Under TEFRA, multifamily bonds issued after December 31, 1982 became subject to the public approval requirements. Before bonds can be sold the HMFA must hold what is commonly referred to as a TEFRA hearing.

In general, a TEFRA notice must be published 14 days in advance of a TEFRA hearing. The Notice must describe the maximum loan amount, the name of the owner, manager or operator, the location of the project, and a general functional description of the project. The TEFRA hearing and approval must occur before the date of issuance but not more than one year before issuance. It should be noted that the TEFRA Notice must be published in the newspapers at least three business days prior to the publication date.

Because the HMFA is allowed insubstantial deviations with respect to the maximum aggregate face amount of the bonds, the name of the owner, manager or operator, and the location of the facility, it is important that the information provided in the TEFRA notice be checked and rechecked. If there are any errors in the notice

be re-posted, thereby delaying the bond issue. To ensure that this does not happen, developers are request complete the project questionnaire.

## **COSTS OF ISSUANCE**

The cost of issuance is the costs incurred by the HMFA for the for the issuance of bonds which include, but not limited to, underwriter's fee, bond counsel fees, rating agency, printing costs, trustee and trustee's fees, bond insurance premiums and auditors' fees. Developers may reduce the interest rate by paying the issuance out-of pocket, by approximately 15 basis points. The actual discount in the rate will be provided bond issuance.

The election to pay for the cost of issuance out of pocket must be made two weeks prior to the date of bond pricing. The payment of same must be made one week prior to bond pricing.

## **NEGATIVE ARBITRAGE**

Arbitrage is the interest rate differential between the rate on the bonds and the yield on the investments made with the bond proceeds. If the interest rate on the investments is greater than the bond yield, positive arbitrage will result, and conversely, if the investment rate is lower than the bond yield, negative arbitrage is created. Arbitrage is market driven. The actual amount of arbitrage is not known until a construction draw schedule is provided, the bonds are priced and the investment contract is awarded. The developer is quoted a best guess to pricing.

Approximately two weeks prior to pricing bonds, the Chief Financial Officer will prepare a detailed document that explains the costs of issuance and negative arbitrage calculations pursuant to the deal. Developers using permanent financing only will be required to pay for negative arbitrage two weeks prior to the issuance of bonds. **This expense is not a reimbursable expense at closing and cannot be financed through the HMFA mortgage loan.**

### **Step IV. Document Checklist**

<b>Number</b>	<b>Form Name</b>	<b>Prepared or Submitted By</b>
5.1	Construction Draw Schedule	Developer
5.2	Cash or Letter of Credit for Negative Arbitrage and Cost of Issuance	
5.3	Agreement as to Interest Rate and Mortgage Amount	HMFA/Developer
	<b>Projects using tax-exempt bond proceeds must provide the following:</b>	
5.4	TEFRA Hearing Notice	HMFA
5.5	<b>Owner's Tax Certificate</b> (tax-exempt financing only)*	Developer
5.6	Developer's Certificate as to Use of Loan Proceeds	Developer

**Items highlighted in bold means HMFA documents must be used.**

**In addition to the documents listed above, the Regulatory Affairs Coordinator will provide you with a list of documents required based on the project particulars.**

For Further Information Contact:

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